

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal No. 2008-56
)	
ALEXANDRE GRADYS,)	
)	
Defendant.)	
)	
_____)	

ATTORNEYS:

Ishmael Meyers, Jr.
St. Thomas, U.S.V.I.
For the plaintiff,

Jessie A. Gessin, AFD
St. Thomas, U.S.V.I.
For the defendant.

ORDER

GÓMEZ, C.J.

Before the Court is the motion of the defendant, Alexandre Gradys ("Gradys"), to dismiss the indictment filed against him in the above-captioned matter.

On August 12, 2008, Gradys applied for asylum with the Citizenship and Immigration Service ("CIS") in St. Thomas, U.S. Virgin Islands. A CIS records check revealed that Gradys had

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previously been deported, and did not have permission to reenter the United States. When Gradys appeared for his asylum interview, he was arrested.

On December 4, 2008, the grand jury returned a superceding indictment (the "Indictment") against Gradys. The Indictment charges Gradys with illegally reentering the United States without permission after previously having been deported, in violation of 8 U.S.C. § 1326(a).

Gradys argues that the Indictment in this matter must be dismissed in light of his pending application for asylum. However, Gradys has not cited, nor is the Court aware of, any authority for the proposition that a court must dismiss a criminal indictment to enable an alien to obtain asylum. Gradys is not entitled to dismissal of the Indictment simply due to the fact that he has a pending application for asylum. *Cf. United States v. Reyes-Salgado*, 13 Fed. Appx. 705, 706 (9th Cir. 2001) (holding that dismissal of a criminal indictment was not appropriate on grounds that the government refused to grant him an asylum hearing) (unpublished). Accordingly, it is hereby

ORDERED that the motion to dismiss is **DENIED**.

S_____
CURTIS V. GÓMEZ
Chief Judge